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ABSTRACT

The lessons of collective bargaining suggest a permanent, political, adversary relationship between teacher associations and school boards. Therefore, administrators must speak for good education, learn well the bargaining skills, and emphasize give and take in bargaining. Teacher associations may be expected to justify their existence, assume privileges to be their rights, ask for more money for less work, and develop group cohesiveness. Because collective bargaining does not reduce conflict or strikes, administrators must not fear strikes, but preserve strong management rights. A glossary of bargaining terms is included. (DW)

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SPEAKER: Arnold Finch, Superintendent, Fresno Unified School District, Fresno, California

TOPIC: Collective Negotiations - 1975 Lessons For School Administrators

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Lesson 1. Collective negotiations (bargaining) is a late-comer to education.

Lesson 2. Collective negotiations, however, have come-and are here to stay.

Lesson 3. The collective bargaining concept has altered the role of the superintendent.

Lesson 4. Collective bargaining has profoundly influenced the political climate in which we live.

Lesson 5. The collective bargaining stance of school employees gives us the opportunity to strengthen our position that we speak for good education for students.

Lesson 6. We should become informed about, and effective in, collective bargaining, or in "meeting and conferring" or in whatever is required.

Lesson 7. Industrial type collective bargaining is not inevitable, but some type of "adversary" relationship with employee organizations is.

Lesson 8. Administrators will get no credit for the present status. The employee organization must justify its existence.

Lesson 9. Never give employee organizations or employee groups anything that you cannot live live with forever.

"That which was a delightful privilege yesterday
Is 'just desserts'today--
By tomorrow, is a God given right."

Lesson 10. The institution has all the "rights"; employee organizations(distinct from individual employees) have only those "rights" which we or the government give them.

Lesson 11. Competent and informed administrators never "give" something without"getting" something. Emphasize the bargaining of collective bargaining.

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Lesson 12. The stance of the employee organization will generally be "more-for-less"-- more money for fewer days, shorter hours, lighter load, fewer students, ad infinitum.

Lesson 13. Teachers as people and teacher organizations are different groups with different aims and goals, but they will not dispute each other.

Lesson 14. Collective bargaining does not reduce conflict, discomfort, or strikes.

Lesson 15. School districts, administrators, superintendents, Boards of Education can survive strikes; however, if they continually give away management prerogatives while retaining responsibilities, they can not survive.

Lesson 16. In private industry, unless employers manage the business it is sure to fail. Unless Boards of Education and superintendents reserve or maintain the ability to manage, education ,too, will be lost.

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# GLOSSARY

*Agreement*

See *Collective negotiations; Professional negotiation.* A written agreement between an employer (or an association of employers) and an employee organization (or organizations), usually for a definite term, defining conditions of employment (wages, hours, vacations, holidays, overtime payments, working conditions, etc.), rights of employees and the employee organization, and procedures to be followed in settling disputes or handling issues that arise during the life of the agreement.

*American Arbitration Association (AAA)*

A private nonprofit organization established to aid professional arbitrators in their work through legal and technical services, and to promote arbitration as a method of settling commercial and labor disputes. The AAA provides lists of qualified arbitrators to employee organizations and employers on request.

*Arbitration (voluntary, compulsory, advisory)*

Method of settling employment disputes through recourse to an impartial third party, whose decision is usually final and binding. Arbitration is *voluntary* when both parties agree to submit disputed issues to arbitration, and *compulsory* if required by law. A court order to carry through a voluntary arbitration agreement is not generally considered as compulsory arbitration. *Advisory arbitration* is arbitration without a final and binding award.

*Arbitrator (impartial chairman)*

An impartial third party to whom disputing parties submit their differences for decision (award). An *ad hoc* arbitrator is one selected to act in a specific case or a limited group of cases. A *permanent arbitrator* is one selected to serve for the life of the agreement or a stipulated term, hearing all disputes that arise during this period.

*Bargaining agent*

Organization designated by an appropriate government agency, or recognized voluntarily by the employer, as the exclusive representative of all employees in the negotiating unit for purposes of collective negotiations.

*Boycott*

Effort by an employee organization, usually in collaboration with other organizations, to discourage the purchase, handling, or use of products of an employer with whom the organization is in dispute. When such action is extended to another employer doing business with the employer involved in the dispute, it is termed a *secondary boycott.*

*Certification*

Formal designation by a government agency of the organization selected by the majority of the employees in a supervised election to act as exclusive representative for all employees in the negotiating unit.

*Check-off (payroll deduction of dues)*

Practice whereby the employer, by agreement with the employee organization (upon written authorization from each employee where required by law or agreement), regularly withholds organizational dues from employees' salary payments and transmits these funds to the organization. The check-off is a common practice and is not dependent upon the existence of a formal organizational security clause. The check-off arrangement may also provide for deductions of initiation fees and assessments. See *Union security.*

*Closed shop*

A form of organizational security provided in an agreement which binds the employer to hire and retain only organization members in good standing. The closed shop is prohibited by the Labor Management Relations Act of 1947 which applies, however, only to employers and employees in industries affecting interstate commerce.

*Collective negotiations (collective bargaining; professional negotiation)*

A process whereby employees as a group and their employers make offers and counter-offers in good faith on the conditions of their employment relationship for the purpose of reaching a mutually acceptable agreement, and the execution of a written document incorporating any such agreement if requested by either party. Also, a process whereby a representative of the employees and their employer jointly determine their conditions of employment.

*Consumer Price Index (CPI).*

An index, issued monthly by the Bureau of Labor Statistics, which measures the average change in prices of goods and services purchased by urban wage-earner and clerical-worker families. The CPI measures price changes only, describing shifts in the purchasing power of the consumer's dollar. It is often incorrectly referred to as a "cost-of-living index." See *Cost-of-living adjustment; Escalator clause.*

*Cooling-off period*

A period of time which must elapse before a strike or lockout can begin or be resumed, by agreement or by law. The term derives from the hope that the tensions of unsuccessful negotiation will subside in time so that a work stoppage can be averted.

*Cost-of-living adjustment*

Raising or lowering salaries in accordance with changes in the cost of living as measured by a designated index, usually the Bureau of Labor Statistics Consumer Price Index. See *Escalator clause.*

*Cost-of-living index*

This term is often used, incorrectly, to designate the Bureau of Labor Statistics Consumer Price Index. See *Consumer price index.*

*Crisis bargaining*

Collective bargaining taking place under the shadow of an imminent strike deadline, as distinguished from extended negotiations in which both parties enjoy ample time to present and discuss their positions. See *Continuous bargaining committees.*

*Escalator clause (wage escalation)*

Provision in an agreement stipulating that wages are to be automatically increased or reduced periodically according to a schedule related to changes in the cost of living, as measured by a designated index, or, occasionally, to another standard, e.g., an average earnings figure. Term may also apply to any tie between an employee benefit and the cost of living, as in a pension plan. See *Consumer price index.*

*Exclusive negotiating rights*

The right and obligation of an employee organization designated as majority representative to negotiate collectively for all employees, including nonmembers, in the negotiating unit.

*Fact-finding board*

A group of individuals appointed to investigate, assemble, and report the facts in an employment dispute, sometimes with authority to make recommendations for settlement. See *Board of inquiry.*

*Federal Mediation and Conciliation Service (FMCS)*

An independent federal agency which provides mediators to assist the parties involved in negotiations, or in a labor dispute, in reaching a settlement; provides lists of suitable arbitrators on request; and engages in various types of "preventive mediation." Mediation services are also provided by several state agencies.

*Fringe benefits*

Generally, supplements to wages or salaries received by employees at a cost to employers. The term encompasses a host of practices (paid vacations, pensions, health and insurance plans, etc.) that usually add to something more than a "fringe," and is sometimes applied to a practice that may constitute a dubious "benefit" to workers. No agreement prevails as to the list of practices that should be called "fringe benefits." Other terms often substituted for "fringe benefits" include "wage extras," "hidden payroll," "nonwage labor costs," and "supplementary wage practices." The Bureau of Labor Statistics uses the phrase "selected supplementary compensation or remuneration practices," which is then defined for survey purposes.

*Grievance*

Any complaint or expressed dissatisfaction by an employee in connection with his job, pay, or other aspects of his employment. Whether such complaint or expressed dissatisfaction is formally recognized and handled as a "grievance" depends on the scope of the grievance procedure.

*Grievance procedure*

Typically a formal plan, specified in a collective agreement, which provides for the adjustment of grievances through discussions at progressively higher levels of authority in management and the employee organization, usually culminating in arbitration if necessary. Formal plans may also be found in companies and public agencies in which there is no organization to represent employees.

*Injunction (labor injunction)*

Court order restraining one or more persons, corporations, or unions from performing some act which the court believes would result in irreparable injury to property or other rights.

*Joint bargaining*

Process in which two or more unions join forces in negotiating an agreement with a single employer.

*Jurisdictional dispute*

Conflict between two or more employee organizations over the organization of a particular establishment or whether a certain type of work should be performed by members of one organization or another. A *jurisdictional strike* is a work stoppage resulting from a jurisdictional dispute.

*Maintenance-of-membership clause*

A clause in a collective agreement providing that employees who are members of the employee organization at the time the agreement is negotiated, or who

voluntarily join the organization subsequently, must maintain their membership for the duration of the agreement, or possibly a shorter period, as a condition of continued employment. See *Union security.*

*Management prerogatives*

Rights reserved to management, which may be expressly noted as such in a collective agreement. Management prerogatives usually include the right to schedule work, to maintain order and efficiency, to hire, etc.

*Man-days of strike idleness*

A key measure of strike activity regularly compiled by the Bureau of Labor Statistics, reflecting working time lost because of strikes and lockouts.

*Master agreement*

A single or uniform collective agreement covering a number of installations of a single employer or the members of an employers' association. See *Multi-employer bargaining.*

*Mediation (conciliation)*

An attempt by a third party to help in negotiations or in the settlement of an employment dispute through suggestion, advice, or other ways of stimulating agreement, short of dictating its provisions (a characteristic of arbitration). Most of the mediation in the United States is undertaken through federal and state mediation agencies. A *mediator* is a person who undertakes mediation of a dispute. *Conciliation* is synonymous with mediation.

*National Labor Relations Board (NLRB)*

Agency created by the National Labor Relations Act (1935) and continued through subsequent amendments. The functions of the NLRB are to define appropriate bargaining units, to hold elections to determine whether a majority of workers want to be represented by a specific union or no union, to certify unions to represent employees, to interpret and apply the Act's provisions prohibiting certain employer and union unfair practices, and otherwise to administer the provisions of the Act. See *Labor Management Relations Act of 1947.*

*Negotiating rights (bargaining rights)*

Legally recognized right to represent employees in negotiations with employers.

*Negotiating unit (bargaining unit)*

Group of employees recognized by the employer or group of employers, or designated by an authorized agency as appropriate for representation by an organization for purposes of collective negotiations.

*No-strike and no-lockout clause*

Provision in a collective agreement in which the employee organization agrees not to strike and the employer agrees not to lockout for the duration of the contract. These pledges may be hedged by certain qualifications, e.g., the organization may strike if the employer violates the agreement.

*Open shop*

A policy of not recognizing or dealing with a labor union, or a place of employment where union membership is not a condition of employment. See *Union security.*

*Recognition*

Employer acceptance of an organization as authorized to negotiate, usually for all members of a negotiating unit.

*Reopening clause*

Clause in a collective agreement stating the time or the circumstances under which negotiations can be requested, prior to the expiration of the contract. Reopenings are usually restricted to salaries and other specified economic issues, not to the agreement as a whole.

*Right-to-work law*

Legislation which prohibits any contractual requirement that an employee join an organization in order to get or keep a job.

*Strike (wildcat, outlaw, quickie, slowdown, sympathy, sitdown, general)*

Temporary stoppage of work by a group of employees (not necessarily members of a union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, or resolve a dispute with management. *Wildcat or outlaw strike*—a strike not sanctioned by union and one which violates a collective agreement. *Quickie strike*—a spontaneous or unannounced strike. *Slowdown*—a deliberate reduction of output without an actual strike in order to force concessions from an employer. *Sympathy strike*—strike of employees not directly involved in a dispute, but who wish to demonstrate employee solidarity or bring additional pressure upon employer involved. *Sitdown strike*—strike during which employees remain in the workplace, but refuse to work or allow others to do so. *General strike*—strike involving all organized employees in a community or country (rare in the United States). *Walkout*—same as strike.

*Unfair labor practice*

Action by either an employer or employee organization which violates certain provisions of national or state employment relations acts, such as a refusal to bargain in good faith. *Unfair labor practice strike*—a strike caused, at least in part, by an employer's unfair labor practice.

*Union security*

Protection of a union's status by a provision in the collective agreement establishing a closed shop, union shop, agency shop, or maintenance-of-membership arrangement. In the absence of such provisions, employees in the bargaining unit are free to join or support the union at will, and, thus, in union reasoning, are susceptible to pressures to refrain from supporting the union or to the inducement of a "free ride."

*Whipsawing*

The tactic of negotiating with one employer at a time, using each negotiated gain as a lever against the next employer.

*Work stoppage*

A temporary halt to work, initiated by workers or employer, in the form of a strike or lockout. This term was adopted by the Bureau of Labor Statistics to replace "strikes and lockouts." In aggregate figures, "work stoppages" usually means "strikes and lockouts, if any"; as applied to a single stoppage, it usually means strike *or* lockout unless it is clear that it can only be one. The difficulties in terminology arise largely from the inability of the Bureau of Labor Statistics (and, often, the parties) to distinguish between strikes and lockouts since the initiating party is not always evident.

Source - Collective Negotiations for Teachers; Lieberman, Myron and Moskow, Michael H., Rand McNally and Co., Chicago, 1966